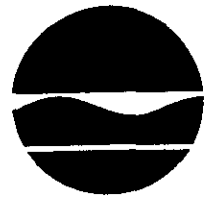


New York State Department of Environmental Conservation**Region Three — Division of Legal Affairs**

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Phone: (845) 256-3037 FAX: (845) 255-3042

Website: www.dec.state.ny.usDenise M. Sheehan
Commissioner

December 18, 2006

Jay R. Myrow
Blustein, Shapiro & Rich, LLP
90 Crystal Run Road, Suite 409
Middletown, New York 10941

Re: Lands of Louis and Janet Nowicki
SBL #57-1-88.22
Town of New Windsor, Orange County

Dear Mr. Myrow:

This is in response to your recent letter regarding the Department's delineation of wetlands on the Lands of Louis and Janet Nowicki in the Town of New Windsor.

As you noted, Doug Gaugler's field delineation of NYSDEC Wetland MB -29 reflected his conclusion that other wetlands on the property under the jurisdiction of the US Army Corps of Engineers (ACOE) are large enough to be eligible for protection by New York State under Article 24 of Environmental Conservation Law. We understand that this affects a significant portion of the Nowickis' property. Department Staff agree with your contention that the Department can not assert its jurisdiction of the added wetland unless a map amendment is undertaken. The Department will initiate this process as soon as possible by providing notice of the proposed amendment to all affected landowners and to the Town of New Windsor. 6 NYCRR Part 664 provides that once the announcement of the proposed amendment has been made, no activity subject to regulation shall be initiated within the area that is the subject of the proposal until the commissioner has either amended the map or denied the amendment.

Prior to the initiation of the map amendment process, Department Staff will validate a map that represents a more precise delineation of state wetland boundaries. All other wetlands on the property should also be represented on the map as "state eligible" wetlands until the Department has completed the map amendment process. Please contact Doug Gaugler to establish a more precise delineation of state wetland boundaries on the Lands of Louis and Janet Nowicki and to identify the wetlands eligible for inclusion on the state wetland map.

As an alternative, in the past the Department has worked with project sponsors in similar circumstances to achieve acceptable development consistent with the state regulatory permit standards (6 NYCRR Part 663) without being delayed by the formal process of amending a state

wetland map. Deed notices and other wetland protective measures may be required. If you would like to further discuss this alternative, please contact Alexander Ciesluk.

By copy of this letter, we are advising the Town of New Windsor of the presence of wetlands eligible to be regulated by DEC on this property. Again, thank you for bringing this matter to our attention. If I can be of further assistance, please feel free to contact me.

Regards,



Vincent Altieri
Regional Attorney

cc: Town of New Windsor
Supervisor George A. Green
Town Board
Planning Board
John Tarolli, P.E.

Marc Moran
Margaret Duke
Alexander Ciesluk
Doug Gaugler
Jack Isaacs
Bill Rudge